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WASHINGTON, DC 20036

In re Application of: Seidel, et al.
Application No. 10/567,825
Filed: February 10, 2006
For: TIME MONITORING OF PACKET
RETRANSMISSIONS DURING SOFT
HANDOVER

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the renewed petition filed May 11, 2007, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special. The original petition filed June 21, 2006 was dismissed in a decision mailed March 21, 2007.

The renewed Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

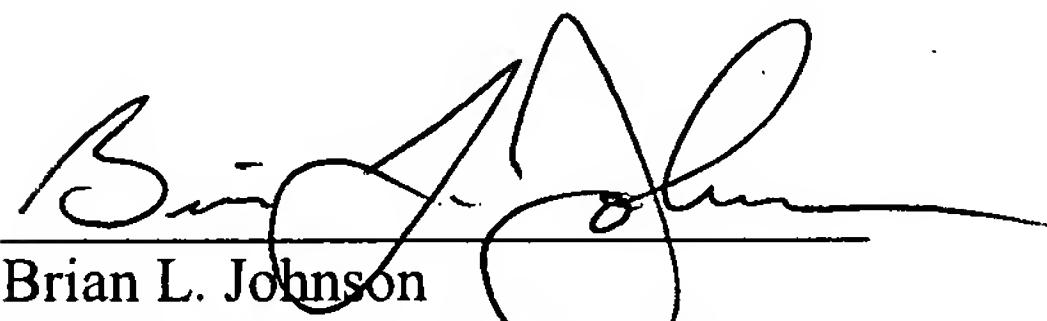
- (a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
- (b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
- (c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;
- (d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
- (e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Note, Petitioner's explanation regarding the eight "3GPP" references is acceptable to overcome the insufficiency set forth in the decision mailed March 21, 2007. However, the renewed petition filed May 11, 2007 fails to adequately meet requirement (e) of the criteria set forth above. With respect to requirement (e), a complete detailed discussion of the identified most closely related references has not been provided with the necessary specificity required under 37 CFR 1.111 (b) and (c). Petitioner should ensure that each reference identified to be "most closely related" (as set forth above) be provided with a corresponding discussion directed to how the language of *each of* the independent claims is specifically distinguishable and patentable from each the references provided in requirement (d) above. Specifically, Petitioner identifies the following references: WO 02/37872 and US 2002/019965, to be "most closely related" (see petition filed June 21, 2006 at page 4 line 12 – page 6 line 5, and in the instant petition filed May 11, 2007 at page 2 line 15 – line 21 and page 7 line 1 – page 8 line 17). However, the discussion directed to how the language of independent claims 40 and 72 patentably defines over these two references is not provided in either petition filed.

Accordingly, the renewed Petition to Make Special is **DISMISSED**.

Since this deficiency was not identified to Petitioner in the decision mailed on March 21, 2007, Petitioner is given one last opportunity to perfect the petition. Any request for reconsideration MUST be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.



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